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16 JOSE ALBERTO GARCIA

17 **IN THE UNITED STATES DISTRICT COURT**  
18 **EASTERN DISTRICT OF CALIFORNIA**

19 JOSE ALBERTO GARCIA, ) Case No.: 1:21-cv-00331-MCE-DB  
20 Plaintiff, )  
21 v. ) **EIGHTH STIPULATION AND**  
22 COUNTY OF STANISLAUS, a municipal ) **ORDER TO CONTINUE**  
23 corporation; Stanislaus County Sheriff's Deputies ) **SCHEDULING ORDER**  
24 RICHARD JOHNSON, individually, JESSUE ) **DEADLINES FOR EXPERT**  
25 CORRAL, individually, and WADE CARR, ) **DISCOVERY AND THE FILING**  
26 individually; Stanislaus County Sheriff's ) **OF DISPOSITIVE MOTIONS**  
27 Sergeants JOSHUA SANDOVAL, individually, ) **ONLY (ECF NOS. 24, 32, 42, 46,**  
28 and THOMAS LETRAS, individually; and, ) **48, 54, 57, 61)**  
29 DOES 1-30, Jointly and Severally, )  
30 )  
31 Defendants. )  
32 \_\_\_\_\_ )

33 Plaintiff, by and through his counsel, T. Kennedy Helm, IV, of Helm Law Office, PC, and  
34 Sanjay S. Schmidt, of the Law Office of Sanjay S. Schmidt; and Defendants, by and through their  
35  
36

1 counsel, Jill B. Nathan, of Rivera Hewitt Paul LLP, hereby respectfully stipulate and request as  
2 follows:

3 RECITALS

4 A. This is the Parties' eighth request for an extension of pretrial dates. (See ECF Nos. 24,  
5 32, 42, 46, 48, 54, 57, 61). This request concerns allowing Defendants to disclose a replacement  
6 use-of-force expert and the deadlines for the completion of expert discovery and the dispositive  
7 motion filing deadline. All other discovery has been completed.

8 B. On September 27, 2023, pursuant to the then-operant scheduling order (ECF No. 57), the  
9 Parties timely exchanged expert disclosures. Defendants disclosed use-of-force expert Brad  
10 Smith, as indicated in the accompanying Declaration of Jill B. Nathan in Support of the Parties'  
11 Stipulation and (Proposed) Order to Continue the Scheduling Order Deadlines, at ¶¶ 4–5.

12 C. On January 17, 2024, Ms. Nathan contacted Mr. Smith to request availability for  
13 Plaintiff's counsel to take his deposition, seeking dates in February or March, given the current  
14 expert discovery cutoff of March 14, 2024. See ECF No. 62, 5:14; Nathan Decl., ¶ 6.

15 D. Unfortunately, Mr. Smith informed Ms. Nathan on January 17, 2024 that his health had  
16 deteriorated and that he was not sure he would "be around" in March. See Nathan Decl., ¶ 7. On  
17 February 7, 2024, Mr. Smith informed Ms. Nathan that a recent surgery did not have a good  
18 outcome, and that he was withdrawing from this case. See Nathan Decl., ¶ 7; *see also* the  
19 accompanying Declaration of Brad Smith, at ¶ 5.

20 E. Defendants have begun searching for a use-of-force expert to replace Mr. Smith. See  
21 Nathan Decl., ¶ 8.

22 F. Given Defendants' need to find a replacement expert, who must then review the case  
23 materials and write a Rule 26 report, the Parties submit that good cause exists to set a deadline of  
24 June 15, 2024 for Defendants to disclose a replacement expert for Mr. Smith.

25 G. Because Defendants need time to find a replacement expert who must then review the  
26 case materials and write a Rule 26 report, the Parties further submit that good cause exists to  
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1 continue the deadline for the completion of expert discovery, currently set for March 14, 2024  
2 (ECF No. 62), to July 15, 2024.

3 H. Continuing the deadline for completion of expert discovery to July 15, 2024 will require  
4 a corresponding continuance for the deadline to file dispositive motions, currently set for  
5 May 2, 2024. ECF No. 62, 5:15–16. To allow the Parties sufficient time to review the expert  
6 deposition transcripts, the Parties request an additional approximately three-month extension of  
7 the deadline to file dispositive motions, from May 2, 2024 to August 26, 2024.

8 I. The Parties further agree that, pursuant to Local Rule 230(b), the Defendants will notice  
9 the dispositive motion hearing not less than sixty-five (65) days after filing of the motion.  
10 However, the parties explicitly stipulate to modify the otherwise applicable briefing schedule  
11 under Local Rule 230(c), such that Plaintiff shall have 30 days to file his opposition.

12 J. Counsel for the Parties have met-and-conferred, and the Parties have agreed that neither  
13 side would be prejudiced by allowing Defendants to disclose a replacement expert for Mr. Smith,  
14 or by extending the expert discovery cutoff date, and the successive deadline for filing  
15 dispositive motions.

16 STIPULATION

17 Given the foregoing, and the approaching deadline for the cutoff of expert discovery  
18 (March 14, 2024), the Parties respectfully submit that good cause exists to continue the expert  
19 discovery cutoff and the dispositive motion filing deadline (May 2, 2024) in the operant  
20 scheduling order, ECF No. 62. *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609  
21 (9th Cir. 1992) (“Rule 16(b)’s ‘good cause’ standard primarily considers the diligence of the  
22 party seeking the amendment. The district court may modify the pretrial schedule ‘if it cannot  
23 reasonably be met despite the diligence of the part[ies] seeking the extension.’”).

24 The Parties respectfully request that the Court grant the Parties’ stipulation by allowing  
25 Defendants to disclose a replacement use-of-force expert, and by extending the deadlines for  
26 expert discovery identified in its Scheduling Order, ECF No. 62, as follows, and stipulate that the  
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1 briefing schedule set forth in the following chart be applicable and override the otherwise  
 2 applicable schedule under Local Rule 230(c):

Matter	Current Deadline (ECF No. <b>62, unless otherwise noted</b> )	New Deadline
Completion of Expert Disclosures	September 27, 2023 (ECF No. 57)	June 15, 2024
Completion of Expert Discovery	March 14, 2024	July 15, 2024
Dispositive Motion Filing Deadline	May 2, 2024	August 26, 2024
Deadline to File Opposition to Motion for Summary Judgment	30 days after filing of dispositive motion, or by June 3, 2024	30 days after the filing of dispositive motions, or by September 25, 2024
Deadline to File Reply to Opposition to Motion for Summary Judgment	10 days after filing of Opposition, or by June 10, 2024	October 7, 2024

16 **IT IS SO STIPULATED.**

17 Respectfully submitted,

19 Dated: February 14, 2024

**LAW OFFICE OF SANJAY S. SCHMIDT  
HELM LAW OFFICE, PC**

21 /s/ T. Kennedy Helm, IV

22 SANJAY S. SCHMIDT  
T. KENNEDY HELM, IV  
23 Attorneys for Plaintiff

24 Dated: February 14, 2024

**RIVERA HEWITT PAUL LLP**

25 /s/ Jill B. Nathan\*

26 JILL B. NATHAN  
27 Attorneys for Defendants

1 \*Pursuant to Local Rule 131(e), counsel has authorized submission of this document on counsel's  
 2 behalf.

3 **ORDER**

4 The Court, having considered the Parties' stipulation, and good cause appearing, rules as  
 5 follows:

6 The Court finds the Parties have shown good cause for the relief their Stipulation requests.  
 7 THEREFORE, the relief that the Parties request is GRANTED, and the operative Scheduling  
 8 Order (ECF Nos. 24, 32, 46, 48 54, 61) is modified as follows:

Matter	Current Deadline (ECF No. 62, unless otherwise noted)	New Deadline
Completion of Expert Disclosures	September 27, 2023 (ECF No. 57)	June 15, 2024
Completion of Expert Discovery	March 14, 2024	July 15, 2024
Dispositive Motion Filing Deadline	May 2, 2024	August 26, 2024
Deadline to File Opposition to Motion for Summary Judgment	30 days after filing of dispositive motion, or by June 3, 2024	30 days after the filing of dispositive motions, or by September 25, 2024
Deadline to File Reply to Opposition to Motion for Summary Judgment	10 days after filing of Opposition, or by June 10, 2024	October 7, 2024

21 The parties are ordered to file a Joint Notice of Trial Readiness not later than thirty (30)  
 22 days after receiving this Court's ruling on the last filed dispositive motion or thirty (30) days  
 23 following the dispositive motion deadline if no dispositive motions are filed. The parties are to set  
 24 forth in their Notice of Trial Readiness, the appropriateness of special procedures, whether this  
 25 case is related to any other case(s) on file in the Eastern District of California, the prospect for  
 26 settlement, their estimated trial length, any request for a jury, and their availability for trial.  
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1 After review of the parties' Joint Notice of Trial Readiness, the Court will issue an order that sets  
2 forth new dates for a final pretrial conference and trial.

3 IT IS SO ORDERED.

4 Dated: February 29, 2024

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6 MORRISON C. ENGLAND, JR.  
7 SENIOR UNITED STATES DISTRICT JUDGE

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